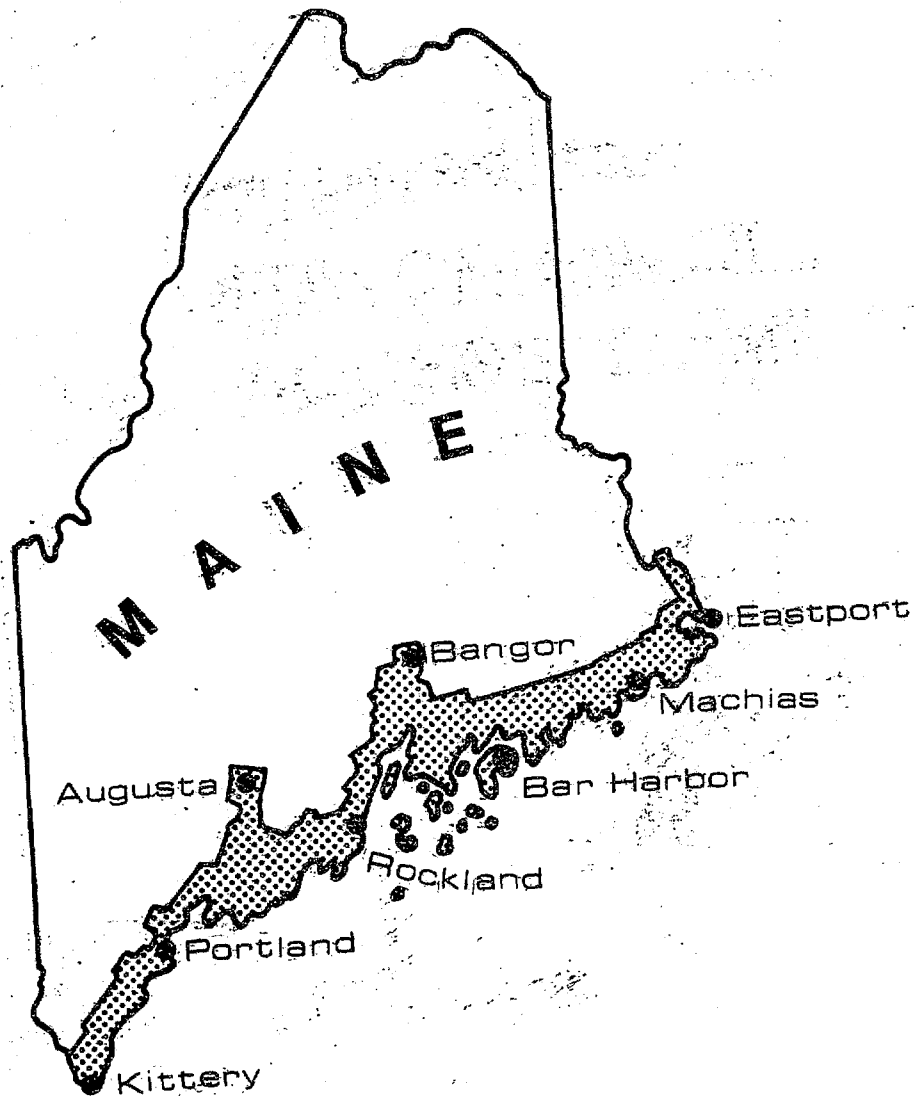


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COASTAL MANAGEMENT POLICY GUIDELINES



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by the Coastal Advisory Committee
in accordance with Executive Order 3,
1-87

December 1986

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STATE OF MAINE
EXECUTIVE DEPARTMENT
STATE PLANNING OFFICEJOSEPH E. BRENNAN
GOVERNORRICHARD E. BARRINGER
DIRECTORU.S. DEPARTMENT OF COMMERCE NOAA
COASTAL SERVICES CENTER
2234 SOUTH HOBSON AVENUE
CHARLESTON, SC 29405-2413

December 31, 1986

Dear Interested Citizen,

I am pleased to provide you with this copy of Maine's Coastal Policy Guidelines, issued pursuant to Executive Order 3 FY 86/87.

In April of 1986, Governor Joseph E. Brennan signed into law P.L. 794, An Act to Enhance the Sound Use and Management of Maine's Coastal Resources (38 MRSA § 1801), containing nine coastal management policies to guide federal, State, and local government activities affecting the coast. The policies recognize that the Maine coast is an asset of immeasurable value; that its resources are experiencing unprecedented pressures; and that only their wise management will sustain them for present and future generations.

Public Law 794 directs that all levels of government "with responsibility for regulating, planning, developing, or managing coastal resources, shall conduct their activities affecting the coastal area consistent with the policies." On September 16, 1986 Governor Joseph E. Brennan, through Executive Order 3 FY 86/87, directed his Coastal Advisory Committee to prepare guidelines for the implementation of these policies.

The Coastal Policy Guidelines describe each policy and indicate how it is to be incorporated into federal, State, and local decisions. State agencies are specifically required, through the Executive Order, to examine all their programs affecting the coast and, by July 1 of 1987, to identify changes necessary to make them consistent with the policies. Upon their approval by the Governor's Coastal Advisory Committee, the changes will then be incorporated into State programs before December 31, 1987.

Executive Order 3 FY86/87 also encourages federal and local agencies to review their programs to ensure their conformance with Maine's coastal policies. Accordingly, we urge all federal and local agencies to take those measures needed to assure compliance of their programs with these guidelines, and offer our assistance to that end.

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The Coastal Policy Guidelines are intended as a framework and context for all public and private decisions affecting the future of the Maine coast. We hope you will find them useful, and that they will help maintain the richness, diversity, and quality of this extraordinary resource of which we are all stewards.

Please contact David Keeley at the Maine State Planning Office if you have any questions regarding the guidelines or suggestions in implementing them.

Sincerely,

A handwritten signature in dark ink, reading "Richard Barringer". The signature is written in a cursive style with a large, sweeping initial "R".

Richard E. Barringer, Chairman
Maine Coastal Advisory Committee

reb/dk/aal/V/27a/8

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Introduction

In April, 1986, Governor Joseph E. Brennan signed into law An ACT to Enhance the Sound Use and Management of Maine's Coastal Resources (38 MRSA § 1801), in which:

"the Legislature finds that the Maine coast is an asset of immeasurable value to the people of the State and the nation, and there is a state interest in the conservation, beneficial use and effective management of the coast's resources; that development of the coastal area is increasing rapidly and that this development poses a significant threat to the resources of the coast and to the traditional livelihoods of its residents; that the United States Congress has recognized the importance of coastal resources through the passage of the United States Coastal Zone Management Act of 1972 and that in 1978 Maine initiated a coastal management program in accordance with this Act which continues to be of high priority; and that there are special needs in the conservation and development of the State's coastal resources that require a statement of legislative policy and intent with respect to state and local actions affecting the Maine coast."

"The Legislature declares that the well-being of the citizens of this State depends on striking a carefully considered and well reasoned balance among the competing uses of the State's coastal area. The Legislature directs that state and local agencies and federal agencies as required by the United States Coastal Zone Management Act of 1972, PL 92-583, with responsibility for regulating, planning, developing or managing coastal resources, shall conduct their activities affecting the coastal area consistent with the following policies to:

1. Port and harbor development. Promote the maintenance, development and revitalization of the State's ports and harbors for fishing, transportation and recreation;
2. Marine resource management. Manage the marine environment and its related resources to preserve and improve the ecological integrity and diversity of marine communities and habitats, to expand our understanding of the productivity of the Gulf of Maine and coastal waters and to enhance the economic value of the State's renewable marine resources;

3. Shoreline management and access. Support shoreline management that gives preference to water-dependent uses over other uses, that promotes public access to the shoreline and that considers the cumulative effects of development on coastal resources;

4. Hazard area development. Discourage growth and new development in coastal areas where, because of coastal storms, flooding, landslides or sea-level rise, it is hazardous to human health and safety;

5. State and local cooperative management. Encourage and support cooperative state and municipal management of coastal resources;

6. Scenic and natural areas protection. Protect and manage critical habitat and natural areas of state and national significance and maintain the scenic beauty and character of the coast even in areas where development occurs;

7. Recreation and tourism. Expand the opportunities for outdoor recreation and encourage appropriate coastal tourist activities and development;

8. Water quality. Restore and maintain the quality of our fresh, marine and estuarine waters to allow for the broadest possible diversity of public and private uses; and

9. Air Quality. Restore and maintain coastal air quality to protect the health of citizens and visitors and to protect enjoyment of the natural beauty and maritime characteristics of the Maine coast."

On September 10, 1985 Governor Brennan issued Executive Order 3 FY 86-87 "Providing for the Implementation of the State's Coastal Management Policies". This Executive Order directs the Coastal Advisory Committee, a standing committee of the Maine Land & Water Resources Council, to issue guidelines to implement the State's coastal management policies by December 31, 1986, and for all State agencies to respond with implementation measures by July 1, 1987.

The guidelines that follow are intended to assist all State agencies in their development of specific procedures to implement the coastal policies. The guidelines for each policy are divided into three sections:

- o Rationale - explains the basis for the policy and the issues which the policy seeks to address.
- o Objectives - state the primary purposes of the policy.
- o Implementation Procedures - outline how the objectives of the policy are to be implemented by government agencies through modifications to permitting, funding, and land management programs.

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COASTAL MANAGEMENT POLICIES

Policy #1 -- Port and Harbor Development

To promote the maintenance, development and revitalization of the State's ports and harbors for fishing, transportation and recreation.

Rationale

Maine's ports and harbors are a limited and irreplaceable State resource uniquely capable of supporting fishing, waterborne transportation, waterbased recreation, and other uses dependent on a shoreside location. Less than 10% of Maine's 3500 miles of coastal shoreline is physically suitable to function as a port or harbor area. These areas are experiencing unprecedented pressure from a variety of development activities. Government agencies have a responsibility to assure that new or expanded activities in these areas will be compatible with, and will not degrade, their current and future use as a port and harbor area.

Objectives

1. Maintain, develop, and revitalize port and harbor areas.
2. Encourage activities that increase the potential of port and harbor areas to serve water-dependent uses, and discourage those that decrease it.

Implementation Procedures

1. Government agencies will actively support infrastructure and services required for water-dependent uses.
2. Government agencies' decisions will not degrade the ability of port and harbor areas to accommodate present or future water-dependent uses.
3. Government agencies will require the provision of public access to the water in the design or rehabilitation of port and harbor areas, where it can be safely accommodated.
4. Government agencies funding port infrastructure will give priority consideration to significant commercial ports.

Policy #2 -- Marine Resource Management

Manage the marine environment and its related resources to preserve and improve its ecological integrity and diversity of marine communities and habitats, to expand our understanding of the productivity of the Gulf of Maine, and to enhance the economic value of the State's renewable marine resources.

Rationale

The marine environment has traditionally been a mainstay of the coastal economy, supporting a wide variety of commercial and recreational pursuits. The State's estuaries and near and off-shore marine environments are relatively pristine, with diverse habitats and productive marine life. These areas are sensitive to environmental and human changes, and their effective management requires continued monitoring and research.

Objectives

1. Develop a sound scientific understanding of the biology of the commercial species of the Gulf of Maine and the factors affecting the abundance and distribution of these species.
2. Implement programs and management regulations that will sustain the ecological integrity of marine communities; enhance the reproductive potential, total yield, and value of commercial species; minimize the adverse consequences of excessive fishing on the stocks or their environment; and reduce the potential for gear conflicts.

Implementation Procedures

1. The State will establish State marine research priorities and strengthen its species-specific research and monitoring programs.
2. The State will support and encourage funding for fishing gear research and development which will minimize adverse impacts of fishing gear on the habitat, the target and associated species.
3. The State will develop comprehensive river and sports fisheries management plans which will serve as the basis for management regulations.

4. The State will conduct seafood marketing programs that promote quality Maine products.
5. The State will encourage aquaculture as a component of the fisheries of Maine where it is compatible with established fisheries.
6. The State will prohibit new or expanded waste discharges to coastal waters which are or could be productive shellfish producing areas.
7. Government agencies will develop and strengthen existing tidal flat management initiatives.

Policy #3 -- Shoreline Management and Access

Support shoreline management that gives preference to water-dependent uses over other uses; that promotes public access to the shoreline and that considers the cumulative effects of development on coastal resources.

Rationale

The amount of shoreline suitable for land use activities that require direct access to the water is extremely small. Shoreline development for land uses which do not depend directly on a shoreside location threatens to limit severely or eliminate the availability of this resource for water-dependent uses.

Public access to the shoreline for a variety of public purposes like fishing, navigation, and recreation is also threatened, as new shoreline developments reduce traditional points of access. Currently, less than 3% of the Maine coast is available to the public; as the State's population grows and greater numbers of tourists are attracted to Maine, the need for public shoreline access will increase.

Regulatory and funding decisions to use coastal resources and to develop the shoreline, considered by themselves, usually pose limited harm to the resource or surrounding environment. Taken together however, the cumulative effects of a series of small and unrelated projects may have profound and lasting impacts on resources such as groundwater, wildlife, and Maine's scenic beauty. These effects are additive and need to be addressed in regulatory and funding decisions.

Objectives

1. Give priority to water-dependent over competing uses for the shoreline.
2. Maintain and increase physical and visual access to the shoreline for the public.
3. Consider and prevent adverse cumulative impacts on coastal resources.

Implementation Procedures

1. Government agencies will increase opportunities for public shoreline access through decisions affecting the use of the shoreline. Consideration will be given to the compatibility of the proposed land use activity with public access, and the extent and quality of the access opportunities offered.

2. Government agencies will not support projects on intertidal or submerged lands that are non-water dependent uses, unless there is no reasonable siting alternative and public trust uses are not adversely affected.
3. Government agencies will give preference to commercial, over recreational, water-dependent uses.
4. Regulatory agencies with land use management responsibilities will develop performance standards to minimize adverse cumulative impacts on coastal resources.

Policy #4 -- Hazard Area Development

Discourage growth and new development in coastal areas where, because of coastal storms, flooding, landslides, or sea-level rise, it is hazardous to human health and safety.

Rationale

Left in their natural state, coastal floodplains, sand dunes, and wetlands provide storm protection by absorbing wave energy and heavy rainfall. These areas also support a variety of important plants and wildlife.

Many low lying coastal areas have experienced extensive damage to both natural and man-made features from coastal storms. This damage frequently requires federal, State, and local governments to repair roadways, bridges, and other public facilities with public funds. Private landowners who have federal flood insurance are subsidized with public funds to restore their shoreline property when damaged by coastal storms.

Coastal storm damage and erosion of shoreline structures will gradually increase as sea level rises and portions of the coast continue to subside. Existing and new structures will be exposed to greater risk, and must be adequately set back and constructed to accommodate this unstable environment.

Objective

1. Discourage development and redevelopment in areas that are hazardous to public safety, or threaten property damage which will be costly to the public treasury.

Implementation Procedures

1. Government agency decisions will not support new infrastructure or related facilities in hazardous areas.
2. Public funds available for improvements, renovations, or repair to existing infrastructure or other public facilities in hazard areas will give priority to their relocation out of hazardous areas.
3. Government agencies will require new and modified structures/facilities to be adequately setback to protect them from erosion for 100 years.
4. Government agencies will include scientific projection of sea-level rise in regulatory and management decisions affecting the shoreline.

Policy #5 -- State and Local Cooperative Management

Encourage and support cooperative State and municipal management of coastal resources.

Rationale

To manage coastal resources effectively, State and local governments must work cooperatively. Few coastal resources are limited to one site or wholly contained within one town. Groundwater, surface waters, and coastal wetlands are interdependent and often cross town lines. Wildlife habitat is continually changing and migratory animals are constantly moving within the coastal region. Many marine resources harvested within a municipality rely on a habitat that encompasses many municipalities.

Coastal municipalities and State government have an interest in working effectively with each other to manage Maine's coastal resources, and are jointly responsible for ensuring their well-being.

Objective

1. Coordinate State and local planning, management, regulatory, and financial decisions to ensure that they are compatible, consistent, and effective.

Implementation Procedures

1. The State will increase opportunities for consultation with municipal officials in State decisions affecting the allocation of coastal resources.
2. Municipalities will ensure that State agencies are informed of significant coastal development projects and that State agency comments are considered before final local decisions are made.
3. The State will provide funding and technical assistance to municipalities to improve their management, conservation, and protection of coastal resources.

Policy #6 -- Scenic and Natural Areas Protection

Protect and manage critical habitat and natural areas of State and national significance and maintain the scenic beauty and character of the coast even in areas where development occurs.

Rationale

Critical habitat and natural areas are important and irreplaceable scientific, educational, and scenic resources. Often, these areas afford habitat for threatened or endangered species, and support native wildlife populations for enjoyment and hunting. With increasing development pressures these critical habitat, natural areas, and scenic character require improved management to sustain them.

Objectives

1. Protect and manage habitats and natural areas, encompassing natural and cultural features of State and national significance, to ensure that sufficient habitat distribution, diversity, size, and quality are maintained.
2. Protect high quality visual experiences along the shoreline and adjacent inland areas.

Implementation Procedures

1. The State will identify critical habitats and natural and scenic areas of State and national significance in the coastal area, and design and implement appropriate protection strategies.
2. The State will cooperate with local governments and private landowners to conserve and manage critical habitat and natural and scenic areas.
3. Government agency actions along State roads - particularly those leading to tourist destinations, those in shoreline areas with an outstanding view of the water, and those with panoramic views of the natural landscape - will protect and enhance public enjoyment of these resources.
4. The State will develop data, priorities, and strategies to guide local, State, and private acquisition of critical habitat and natural and scenic areas.
5. The State will provide information to the public regarding the significance and sensitivity of critical habitat and natural and scenic areas.

Policy #7 -- Recreation and Tourism

Expand the opportunities for outdoor recreation and encourage appropriate coastal tourist activities and development.

Rationale

The quality of life for the State's residents is closely linked to an outdoor environment which is desirable and accessible. Further, these opportunities are important attractions for the estimated 6 million tourists who visit Maine each year and to the thousands of out-of-state residents who maintain seasonal residency in Maine. Employment for more than 40,000 people relies on these opportunities and activities which contribute \$1.25 billion annually to the State's economy.

Objectives

1. Protect and manage outdoor recreational resources and make them more accessible to the public.
2. Promote tourist activities in areas that can accommodate increased use.

Implementation Procedures

1. The State will work cooperatively with the public and private sectors to expand the quantity and quality of outdoor recreational resources available to the public.
2. The State will support and encourage the management of outdoor recreational resources to ensure they remain available to the public and that they are of a high quality.
3. The State will expand the recreational opportunities for Maine citizens and visitors by increasing the use of existing State facilities, and acquiring and developing new ones in appropriate locations.
4. Government agencies' promotional efforts to expand the use of outdoor recreational areas will be compatible with each area's ability to accommodate increased use, and will not result in the diminution of the area's recreational experience.

Policy #8 -- Water Quality

Restore and maintain the quality of our fresh, marine and estuarine waters to allow for the broadest possible diversity of public and private uses.

Rationale

The State's fresh, estuarine, and marine waters contribute economic, social, aesthetic and biological values to Maine. The State has a responsibility to safeguard and perpetuate these values while ensuring that development affecting these waters is compatible with their natural characteristics.

Objective

1. Manage the State's surface and ground water to assure high water quality.

Implementation Procedures

1. Government agencies, through siting decisions for projects which will have an effect on coastal water quality, will consider the projects' impacts on fresh, marine, and estuarine waters. Projects that adversely affect water quality or interfere with public trust activities will not be approved.
2. State financial assistance will not be provided to projects which have an adverse impact on coastal water quality.
3. Government agencies will identify areas highly susceptible to groundwater contamination, and develop a classification system and strategies to protect the resource.
4. Government agencies will identify and protect the watersheds of lakes and estuaries sensitive to contamination.

Policy #9 -- Air Quality

Restore and maintain coastal air quality to protect the health of citizens and visitors and to protect enjoyment of the natural beauty and maritime characteristics of the Maine coast.

Rationale

Clean air attracts residents and visitors to the coast of Maine, and makes it a special place to live and work. A decrease in air quality and visibility is detrimental to the economy, health, and general welfare of Maine citizens. It is in the State's interest to support those activities that will improve air quality and discourage those activities that will degrade it.

Objective

1. Manage the air resource in the coastal region to attain quality sufficient to protect the public and coastal resources.

Implementation Procedures

1. Government agencies will minimize the adverse effects of any project's emissions on coastal air quality, including visibility.
2. Government agencies' decisions will consider all portions of area likely to be affected by a project, including communities downwind. Projects which have an overall detrimental effect on air quality will not be approved.
3. State financial assistance will not be provided to projects which have an adverse impact on coastal air quality.

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OFFICE OF
THE GOVERNOR

NO. 3FY 86/87
DATE September 16, 1986

**Providing for the Implementation
of the State's Coastal Management Policies**

WHEREAS the Maine Coastal area, including the offshore, contains natural resources and cultural assets of great economic, social, and environmental value to the people of Maine; and

WHEREAS the coastal area is experiencing unprecedented growth and development which, if not managed wisely, pose a significant threat to the quality of Maine life and irreparable damage to Maine's coastal resources; and

WHEREAS the Maine Legislature recognized the critical need to respond to these pressures in 1986 and enacted P.L. 794 to improve the State's use and management of our coastal resources; and

WHEREAS the Maine Legislature articulated nine coastal resource management policies which must now be incorporated into State and local regulatory, funding, and planning programs;

NOW, THEREFORE, I, Governor Joseph E. Brennan, Governor of the State of Maine, do hereby direct the Coastal Advisory Committee, a Standing Committee of the Maine Land & Water Resources Council, to develop and monitor an implementation strategy to incorporate these policies into State regulatory, funding, and planning programs.

It is further ordered, that the Coastal Advisory Committee shall develop guidelines to assist State agencies in implementing the coastal policies, and complete these guidelines by December 31, 1986. The Coastal Advisory Committee shall solicit public review and comment on the guidelines at an appropriate time.

It is further ordered that, prior to July 1, 1987, the following State agencies with responsibilities in the coastal area shall

submit to the Coastal Advisory Committee detailed implementation procedures for incorporating these policies into their regulatory, funding, and planning programs:

- o Department of Conservation
- o Department of Environmental Protection
- o Department of Inland Fisheries & Wildlife
- o Department of Marine Resources
- o Department of Transportation
- o State Development Office
- o State Planning Office
- o Finance Authority of Maine
- o Maine State Housing Authority

It is further ordered that, the Coastal Advisory Committee shall review these reports to determine whether they comply with the guidelines; and that these agencies shall be responsible for producing implementation procedures which are satisfactory to the Coastal Advisory Committee not later than December 31, 1987.

It is further ordered that, the Coastal Advisory Committee shall have a continuing responsibility periodically to review policy implementation procedures, and to recommend improvements to the appropriate agencies.


JOSEPH E. BRENNAN
Governor

GLOSSARY

This Glossary provides the reader with definitions of technical terms used in the Coastal Policy Guidelines.

Adverse effect or impact: An undesirable effect on coastal resources.

Areas of State and National Significance: Places, that because of their natural, cultural, and historic features do not occur frequently in Maine or the nation. They include, but are not limited to, sites on the historic register, critical and heritage areas, and habitat for endangered plants and animals.

Coastal Advisory Committee: A Cabinet committee established by Executive Order 12 FY 83/84 as a Standing Committee of the Maine Land and Water Resources Council.

Coastal area: All coastal municipalities and unorganized townships on tidal waters and all coastal islands. The inland boundary of the coastal area is the inland line of coastal town lines and the seaward boundary is the outer limit of the United States territorial sea.

Coastal management: The planning, development, conservation and regulation of coastal resource use by federal, State, regional and local governments.

Coastal resources: The coastal waters of the State and adjacent shorelands, their natural resources and related marine and wildlife habitat that together form an integrated terrestrial, estuarine and marine ecosystem.

Consistent with the coastal management policies: Fully consonant with the policies, unless otherwise prohibited by law.

Critical habitat: Are specific areas that serve an essential role in maintaining wildlife, particularly in wintering, breeding, and migrating.

Cumulative impact or effect: Incremental effects of an individual project which are significant when viewed in connection with the effects of past, other current, or projected future land and water uses. These include growth inducing or facilitating effects.

Degrade: To diminish the quality.

Encourage: Actively stimulate; give help to; foster; seek to establish.

Government agencies: State agencies identified in Executive Order 3 FY 86-87, municipalities and townships, and federal agencies.

Hazard areas: Areas that are subject to natural events that are known to result in death or endanger the built environment.

High erosion rate area: Are shoreline areas that are eroding and/or have a history of erosion, causing them to be highly susceptible to further erosion and damage from storms. These areas extend inland to the limit of the area likely to be eroded in less than 100 years, including developed and undeveloped areas.

Infrastructure and services: A facility or facilities, which transport(s) people, materials, energy, or information, and upon which water-dependent uses rely.

Mean high water: That line on the shore of tidal waters reached by the shoreward limit of the rise of the medium tides between the spring and neap.

Minimize: To reduce as much as possible.

Natural areas: Land and water that has substantially retained its natural character, and as a result is capable of proving natural habitat for plant, animal, or marine life. Such areas are not necessarily completely natural or undisturbed, but may be significant for the study of natural, historical, scientific, or cultural features, or for the appreciation of natural features.

New development: Any material change in the use of any structure or land or water body.

Port and harbor areas: Areas that have a minimum of five feet of water at low tide, provide vessel protection during coastal storms, have adjacent land areas with a slope of less than 15% for 250 feet back from the normal high tide line, or have been traditionally used by commercial and recreational vessels.

Port and harbor area maintenance, development and revitalization:

Maintenance -- to keep existing shoreside and waterside infrastructure and services that are required by water-dependent uses in good repair.

Development -- to build or increase those shoreside and waterside infrastructure and services required by water-dependent uses.

Revitalization -- to restore or improve those shoreside and waterside infrastructure and services required by water-dependent uses.

Public shoreline access: The ability to enter, approach, pass to and from, see over or through, and make use of shoreline areas and coastal resources.

Public trust uses or activities: Are fishing, fowling, navigation and recreational pursuits.

Significant commercial ports: Those ports with 30' of water at low water and with developed infrastructure serving waterborne industrial and commercial uses.

Significant effect: A change in the built or natural environment that is cause for concern.

Water-dependent uses: Those uses that require, for their primary purpose, location on submerged lands or that require direct access to, or location in, coastal waters and which cannot be located away from these waters. These uses include, but are not limited to, commercial and recreational fishing and boating facilities, finfish and shellfish processing, storage and retail and wholesale marketing facilities, waterfront dock and port facilities, shipyards and boat building facilities, marinas, navigation aides, basins and channels, industrial uses dependent upon water-borne transportation or requiring large volumes of cooling or processing water that cannot reasonably be located or operated at an inland site and uses which primarily provide general public access to marine or tidal waters.

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